

OCT 14 2009

Clerk of Court

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

SUGENTINO PERCEL
Petitioner,

vs.

Docket No.: 4:06-CR-00089

UNITED STATES OF AMERICA
Respondent.
_____ /

**PETITIONER'S MOTION FOR EXTENSION OF TIME TO
FILE REPLY TO GOVERNMENT OPPOSITION TO
RULE 33 MOTION FOR NEW TRIAL**

Comes now Petitioner Sugentino Percel with this his motion requesting 15 days to file an appropriate reply to the government's opposition to Petitioner's motion for new trial.

In support, petitioner provides as follows:

1. Petitioner has recently filed a Motion for New Trial pursuant to Rule 33 of the Federal Rules of Criminal Procedure that is currently pending before this court.
2. The government has requested that the Court construe the motion as a Title 28 U.S.C. § 2255 under the position that Petitioner's Rule 33 Motion is untimely.
3. The government's position is incorrect, since the Motion for New Trial was based on new found evidence and according to Rule 33 of the Federal Rules of

Criminal Procedure Petitioner is allowed three years from the date of jury verdict in order to present his motion.

4. The government has conceded that the jury returned a verdict on November 20, 2006.

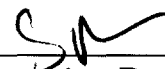
5. Accordingly, the Motion for New Trial pending before this court has been timely filed.

6. Petitioner respectfully prays that this Honorable Court will grant an additional 15 days for Petitioner to properly provide a reply to the government's opposition to Petitioner's Motion for New Trial as it appears that Petitioner's pleadings are in fact timely filed.

7. Petitioner does not wish this Court to construe the Motion for New Trial as a Title 28 U.S.C. § 2255 as the same will be filed prior to the Anti-Terrorism & Effective Death Penalty Act time limitations expire.

WHEREFORE, Petitioner respectfully prays that this Honorable Court will grant a 15 day extension of time to file a proper reply to the government's opposition to petitioner's Rule 33 Motion for New Trial.

Done this 16, day of October 2009



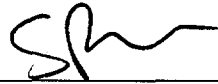
Sugentino Percel
Register No.: 39433-179
FCI Loretto
P.O. Box 1000
Loretto, PA 15940

CERTIFICATE OF SERVICE

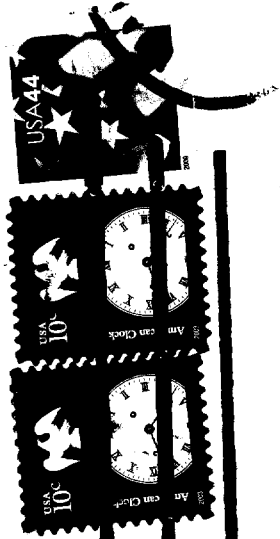
I HERBY DO CERTIFY that a true and correct copy of pleading was mailed to:
AUSA James Lee Turner, P.O. Box 61129, Houston, TX 77208.

Done this 6, day of October 2009

I hereby do certify that pursuant to
Penalty of Perjury Title 28 U.S.C. § 1746
that on this 6 day of October 2009 I
signed and mailed this document via the
Federal Bureau of Prisons' Legal Mail
System.



Sugentino Percel
Register No.: 39433-179
FCI Loretto
P.O. Box 1000
Loretto, PA 15940



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United States Courts
Southern District
OCT 14 2009

Clerk of Court

Texas Southern District Court

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